

ITEM # _____

**SEMINOLE COUNTY GOVERNMENT
LAND PLANNING AGENCY / PLANNING AND ZONING COMMISSION
AGENDA MEMORANDUM**

SUBJECT: Rezone from OP (Office Professional) to PCD (Planned Commercial Development District). (Paul Partyka, applicant)

DEPARTMENT: Planning & Development **DIVISION:** Planning

AUTHORIZED BY: Matthew West **CONTACT:** Jeff Hopper **EXT** 7431

Agenda Date 08/06/03 **Regular** ☐ **Work Session** ☐ **Briefing** ☐
Special Hearing – 6:00 ☐ **Public Hearing – 7:00** ☒

MOTION/RECOMMENDATION:

1. Recommend APPROVAL of the request for rezoning from OP (Office Professional) to PCD (Planned Commercial Development) on 1.8 acres on the east side of Tuskawilla Road, ¼ mile north of Red Bug Lake Road, subject to conditions listed in the development order, (Paul Partyka, applicant); or
2. Recommend DENIAL of the request for rezoning from OP (Office Professional) to PCD (Planned Commercial Development) on 1.8 acres on the east side of Tuskawilla Road, ¼ mile north of Red Bug Lake Road, (Paul Partyka, applicant); or
3. CONTINUE the public hearing until a time and date certain.

(District 2 – Comm. Morris)

(Jeff Hopper, Senior Planner)

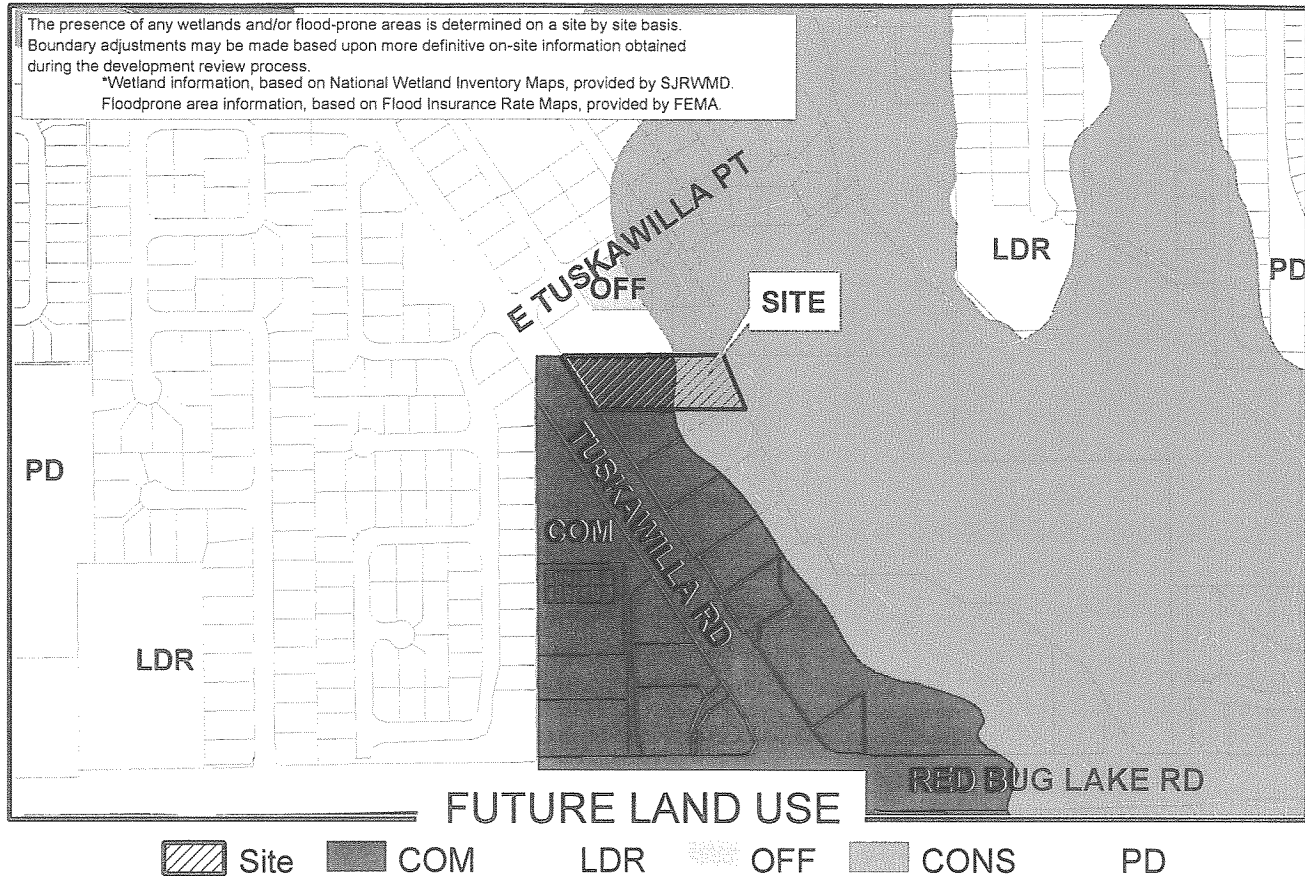
BACKGROUND:

The applicant is requesting approval of a PCD on a 1.8 acre site on the east side of Tuskawilla Road. Intended use of the property is a 150-seat seafood restaurant in a 6,000 square foot building. The proposed site plan shows sufficient parking and landscaping, and, with a few exceptions, meets applicable regulations of the Land Development Code. The request includes waivers to certain Code provisions as discussed in the staff report.

STAFF RECOMMENDATION:

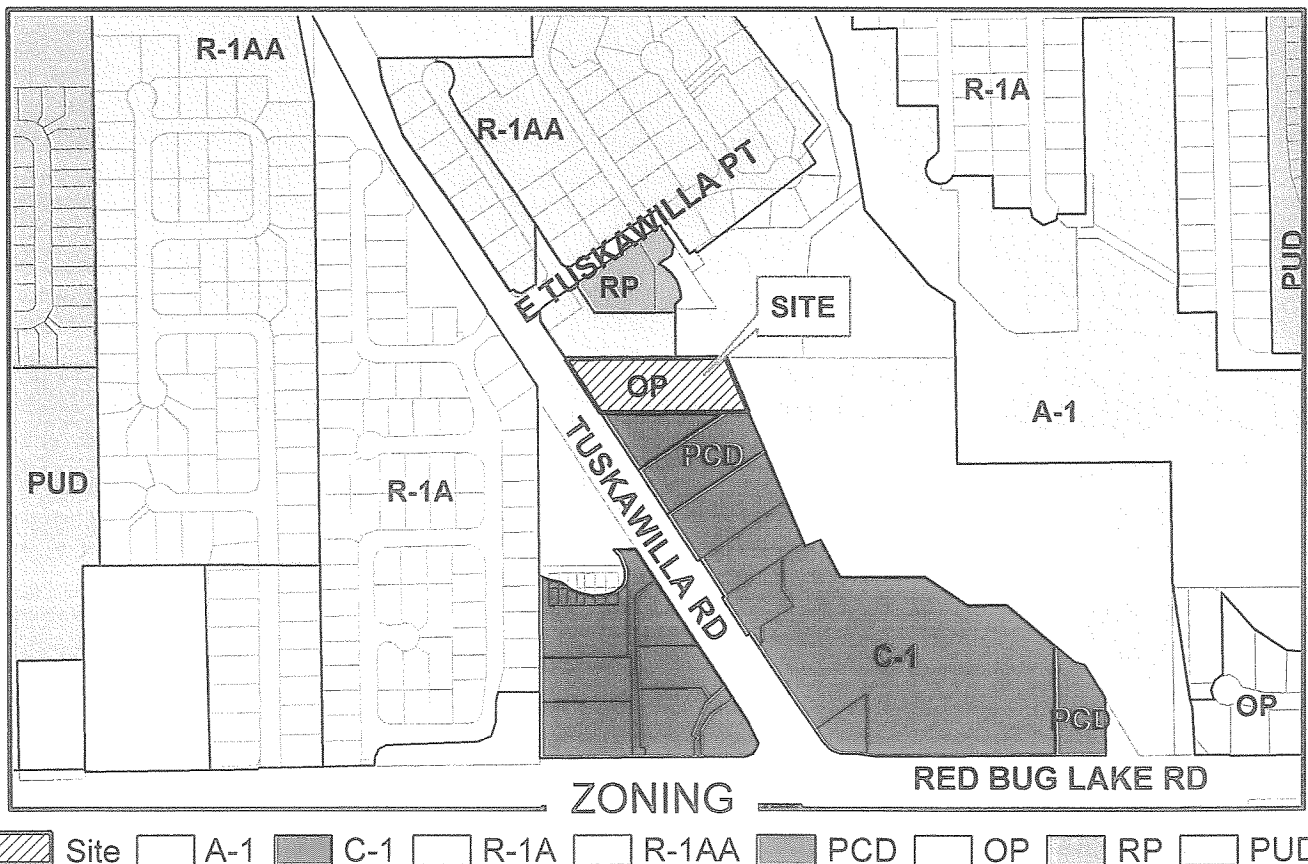
Staff recommends APPROVAL of the requested PCD classification per the attached Development Order.

Reviewed by:	<u>KZC</u>
Co Atty:	_____
DFS:	_____
OTHER:	_____
DCM:	_____
CM:	_____
File No.	<u>Z2003-014</u>



Applicant: NAI Realvest Partners, Inc.
Physical STR: 24-21-30-506-0000-0070
Gross Acres: 1.816 BCC District: 2
Existing Use: Vacant Commercial
Special Notes: None

	Amend/ Rezone#	From	To
FLU	--	--	--
Zoning	Z2003-014	OP	PCD





Rezone No: Z2003-014

From: OP To: PCD

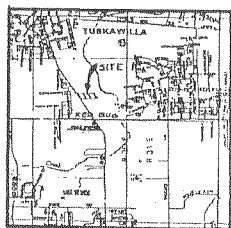
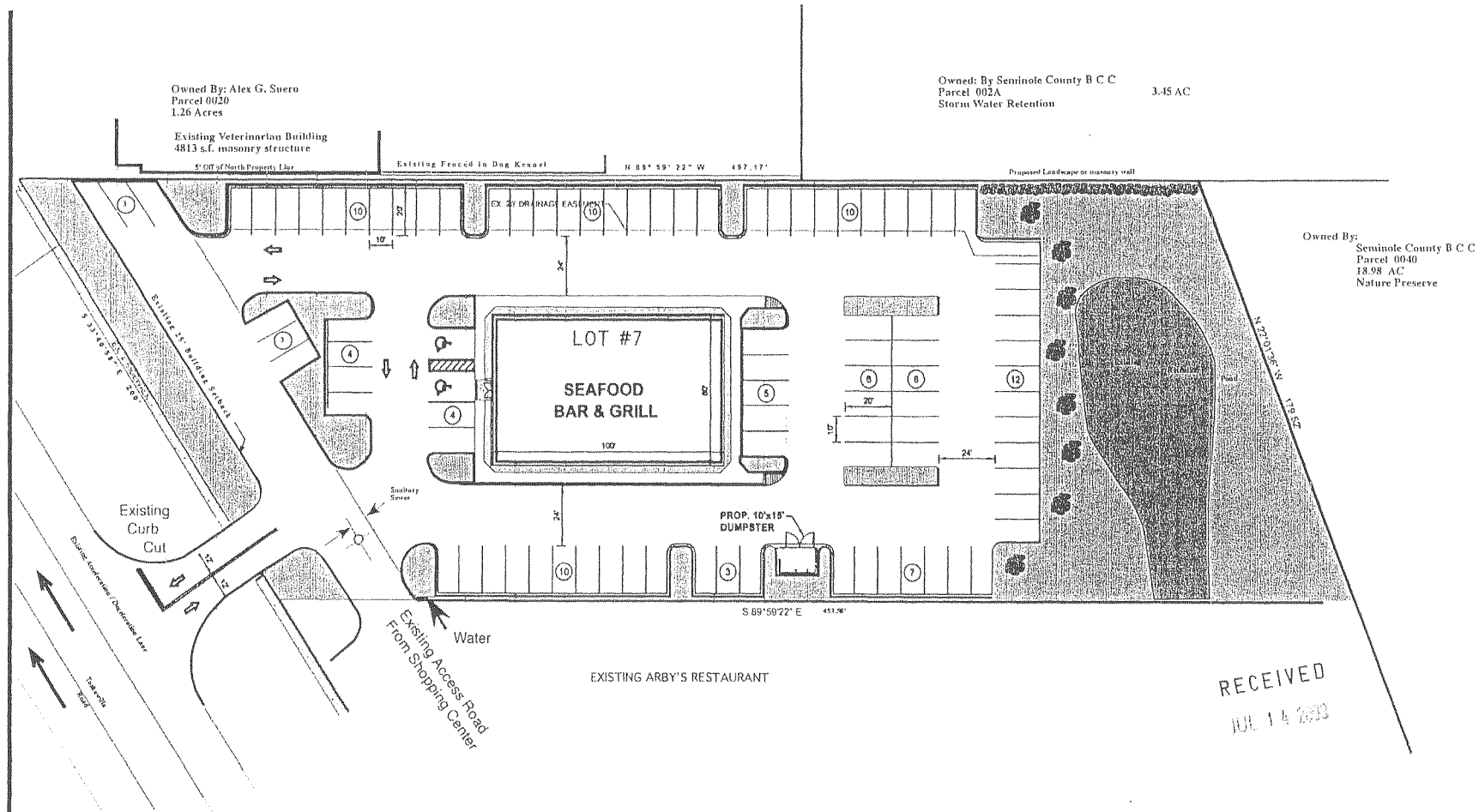
 Parcel

 Subject Property



NOT TO SCALE

February 1999 Color Aerials



Project: Red Willow Plaza; 1295 Tuskawilla Road

Legal: Lot 7, Red Willow Plaza II
Plat Book 35, Pg 180, Seminole County FL

Owner: Hacienda Development Corp.

Project Data: Improvements: 55,373.8 s.f. 70%
Open: 21,711.5 s.f. 30%
Green Area: 79,105.3 s.f. 100%

Proposed Use: Limited to Current C-1 Uses/Conditional Uses

Zoning: Presently Office Professional (OP)
Requesting change to PCD

Building Height: 35' Max

Building Setbacks: Front 25'
Side 5'
Rear 25'

Lighting: Slow box-Cutoff Style <16"

Utilities: Water & Sewer: Seminole County

General Notes

Contracted for a 150 Seat Seafood Restaurant

Parking: 150/1 = 37.5 Required
91 Provided

Hours of Operation: 11 am - 12 pm: Sunday thru Thursday
11 am - 1 am: Friday and Saturday

No Deliveries: 9 pm - 7 am

Outdoor Seating: West and South Only

Landscape: 10% Internal

North Drainage Easement: Reinforced Concrete Drainage Pipe
will support Vehicular Traffic

Buffers: Shall be Reamed Landscaped or Masonry wall

Existing Retention Pond: Restore

TUSCAWILLA CENTRE

REQUEST INFORMATION		
APPLICANT	Paul Partyka	
PROPERTY OWNERS	Hacienda Development Corp.	
REQUEST	Rezone from OP (Office Professional) to PCD (Planned Commercial Development District)	
HEARING DATE(S)	P&Z: August 6, 2003	BCC: September 9, 2003
SEC/TWP/RNG	24-21-30-511-0000-0020	
LOCATION	East side of Tuskawilla Rd., ¼ mile north of Red Bug Lake Rd.	
FUTURE LAND USE	Commercial	
FILE NUMBER	Z2003-014	
COMMISSION DISTRICT	District 2 (Morris)	

OVERVIEW

Zoning Request: The applicant is requesting approval of a PCD on a 1.8 acre site on the east side of Tuskawilla Road. Intended use of the property is a 150-seat seafood restaurant in a 6,000 square foot building. The proposed site plan shows sufficient parking and landscaping, and, with a few exceptions, meets applicable regulations of the Land Development Code.

A Low Density Residential (LDR) land use designation on neighboring property to the north nominally triggers the active/passive buffer requirement of the Land Development Code. However, the existing use of that adjacent site is a veterinary clinic, Tuskawilla Oaks Animal Hospital, which was permitted by Special Exception in the A-1 zoning district. Because of the commercial nature of the existing use, the normal buffer requirement should be reduced as described in the Staff Recommendations section of this report.

The restaurant proposal includes a full-service bar, although the majority of the facility's revenue would be generated by food sales. The site is not within 1,000 feet of a church or school. The Code also provides for separation distances of 500 feet from the entrance to the facility, and 100 feet from the closest vertical surface of the building, to property having a residential zoning or land use designation. The site location and submitted site plan do not meet these requirements in relation to the veterinary clinic property to the north. However, the subject property is 500 feet from developed residential property, assuming that residents of Tuskawilla Point to the west make use of legal pedestrian crossings.

Preliminary research by staff indicates that the neighboring lot to the north is still in the A-1 Agricultural district, despite being shown on available zoning maps as R-1AA. Although staff will continue investigating this zoning discrepancy, please note that the active/passive buffer and residential separation requirements apply because of the future land use designation of the animal hospital site. Any or all of these requirements may be waived or reduced by the Board of County Commissioners through the PCD approval.

Existing Land Uses: The existing zoning designations and land uses are as follows:

	Zoning	Future Land Use	Existing Land Use
North	A-1*	LDR	Veterinary clinic, County retention facility
South	C-1	Commercial	Restaurant
East	A-1	LDR	Vacant
West	R-1A	LDR	Single Family

* subject to verification

For more detailed information regarding zoning and land use, please refer to the attached map.

SITE ANALYSIS

Facilities and Services:

1. Adequate facilities and services must be available concurrent with the impacts of development. If required by the concurrency review, additional facilities and services will be identified.
2. The proposed zoning is consistent with the adopted future land use designation assigned to the property, and does not alter the options or long range strategies for facility improvements or capacity additions included in the Support Documentation to the Vision 2020 Plan.
3. Seminole County will provide water and sewer service to the site.
4. Information on stormwater capacity and outfall will have to be provided prior to Final Site Plan approval.

Compliance with Environmental Regulations: At this time there are no concerns regarding compliance with environmental regulations.

Compatibility with surrounding development: The proposed PCD zoning classification is compatible with the surrounding existing uses.

STAFF RECOMMENDATION

Staff recommends APPROVAL of the request subject to the following conditions:

- a. The structure shall be set back a minimum of 50 feet from the north property line.
- b. A minimum 5-foot buffer shall be provided along the north property line, including a 6-foot brick or masonry wall.

- c. The site shall be limited to C-1 district permitted uses, but shall include alcoholic beverage sales within a bona fide restaurant as defined in Section 30.1353 of the Land Development Code. If a use other than a restaurant is proposed, a major amendment to the PCD may be required.
- d. Hours of operation shall be 11 a.m. – midnight Sunday through Thursday, and 11 a.m. -1 a.m. Friday and Saturday.
- e. Outdoor seating shall be provided only on the west and south sides of the building.
- f. Retention pond shall be amenitized per Section 30.1344 of the Land Development Code. This shall be determined at Final Site Plan review.
- g. Outdoor lighting fixtures shall be limited to shoebox-cutoff style fixtures not more than 16 feet in height, projecting no more than 0.5 foot-candles at property lines..
- h. The architectural style of the building shall be compatible with residential. Elevations shall be provided at Final Master Plan.
- i. Building height shall be limited to a maximum of 35 feet.
- j. Applicant shall provide paved pedestrian paths connecting the building to public sidewalks on Tuskawilla Road.
- k. Delivery times shall be limited to 9:00 a.m. to 9:00 p.m.

**SEMINOLE COUNTY DEVELOPMENT
ORDER**

On September 9, 2003, Seminole County issued this Development Order relating to and touching and concerning the following described property:

Legal description attached as Exhibit A.

(The aforescribed legal description has been provided to Seminole County by the owner of the aforescribed property.)

FINDINGS OF FACT

Property Owner: HACIENDA DEVELOPMENT CORP.

Project Name: TUSCAWILLA CENTRE PCD

Requested Development Approval: Rezoning from OP to PCD (Planned Commercial Development)

The Development Approval sought is consistent with the Seminole County Vision 2020 Plan and will be developed consistent with and in compliance to applicable land development regulations and all other applicable regulations and ordinances.

The owner of the property has expressly agreed to be bound by and subject to the development conditions and commitments stated below and has covenanted and agreed to have such conditions and commitments run with, follow and perpetually burden the aforescribed property.

Prepared by: JEFF HOPPER
1101 East First Street
Sanford, Florida 32771

NOW, THEREFORE, IT IS ORDERED AND AGREED THAT:

(1) The aforementioned application for development approval is **GRANTED**.

(2) All development shall fully comply with all of the codes and ordinances in effect in Seminole County at the time of issuance of permits including all impact fee ordinances.

(3) The conditions upon this development approval and the commitments made as to this development approval, all of which have been accepted by and agreed to by the owner of the property are as follows:

- a. The structure shall be set back a minimum of 50 feet from the north property line.
- b. A minimum 5-foot buffer shall be provided along the north property line, including a 6-foot brick or masonry wall.
- c. The site shall be limited to C-1 district permitted uses. Uses may include alcoholic beverage sales within a bona fide restaurant as defined in Section 30.1353 of the Land Development Code. If a use other than a restaurant is proposed, a major amendment to the PCD shall be required.
- d. Hours of operation shall be 11 a.m. – midnight Sunday through Thursday, and 11 a.m. - 1 a.m. Friday and Saturday.
- e. Outdoor seating shall be provided only on the west and south sides of the building.
- f. Retention pond shall be amenitized per Section 30.1344 of the Land Development Code.
- g. Outdoor lighting fixtures shall be limited to shoebox-cutoff style fixtures not more than 16 feet in height, projecting no more than 0.5 foot-candles at any property line.
- h. The architectural style of the building shall be compatible with residential development. Elevations shall be provided and evaluated at Final Master Plan.
- i. Building height shall be limited to a maximum of 35 feet.
- j. Applicant shall provide paved pedestrian paths connecting the building to public sidewalks on Tuskawilla Road.
- k. Delivery times shall be limited to 9:00 a.m. to 9:00 p.m.

(4) This Development Order touches and concerns the aforescribed property and the conditions, commitments and provisions of this Development Order shall perpetually burden, run with and follow the said property and be a servitude upon and binding upon said property unless released in whole or part by action of Seminole County by virtue of a

document of equal dignity herewith. The owner of the said property has expressly covenanted and agreed to this provision and all other terms and provisions of this Development Order.

(5) The terms and provisions of this Order are not severable and in the event any portion of this Order shall be found to be invalid or illegal then the entire order shall be null and void.

Done and Ordered on the date first written above.

By: _____
Daryl G. McLain
Chairman
Board of County Commissioners

Attest:

Maryanne Morse
Clerk to the Board of County Commissioners

OWNER'S CONSENT AND COVENANT

COMES NOW, the owner, HACIENDA DEVELOPMENT CORP., on behalf of itself and its heirs, successors, assigns or transferees of any nature whatsoever and consents to, agrees with and covenants to perform and fully abide by the provisions, terms, conditions and commitments set forth in this Development Order.

Witness

_____ By: _____

Print Name

MARK WALLSCHLAEGER

President of Hacienda Development Corp.

Witness

Print Name

STATE OF FLORIDA

COUNTY OF _____

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared MARK WALLSCHLAEGER, President of Hacienda Development Corp, and is personally known to me or who has produced _____ as identification and who acknowledged and executed the foregoing instrument.

WITNESS my hand and official seal in the County and State last aforesaid this _____ day of _____, 2003.

Notary Public, in and for the County and State
Aforementioned
My Commission Expires:

EXHIBIT A

LEGAL DESCRIPTION: Lot 7, RED WILLOW PLAZA

According to the Plat thereof, as recorded in Plat Book 35, Pages 99 and 100 of the public records of Seminole County, Florida.

A portion of the Northeast $\frac{1}{4}$ of Section 24, Township 21 South, Range 30 East, Seminole County, Florida, being more particularly described as follows:

BEGINNING at a point located on the easterly right-of-way line of Tuskawilla Road (140 foot right-of-way) a distance of 1,296.02 feet northwesterly from the intersection of said easterly right-of-way line of Tuskawilla Road and the northerly right-of-way line of Red Bug Lake Road (150 foot right-of-way), as measured along a said easterly right-of-way line of Tuskawilla Road N33 40'58"W a distance of 200.00 feet to a point; thence leaving said right-of way line of Tuskawilla Road and running S89 59'22"E a distance of 503.18 feet to a point; running thence S22 01'36"E a distance of 179.57 feet to a point; running thence S89 59'22"W a distance of 459.59 feet to a point lying on the easterly right-of-way line of Tuskawilla Road and the POINT OF BEGINNING; said tract of land containing 1.84 acres as shown on that certain preliminary plat prepared for Pridgen and Associates, dated December 13, 1985, last revised March 17, 1986, by Harling, Locklin and Associates, Inc.

LESS

Parcel 168

Begin at the Southwest corner of Lot 7, RED WILLOW PLAZA as recorded in Plat Book 35, Pages 99 and 100, Public Records of Seminole County, Florida; thence run N32 59'34"W 200.00 feet to the Northwest corner of said Lot 7 a distance of 6.01 feet to a point lying 5.00 feet East of the Westerly line of said Lot 7 by perpendicular measure; thence run S32 59'34"E 199.91 feet to the South line of said Lot 7; thence run S89 57'02"W 5.96 feet to the point of beginning, containing therein 1,000 square feet more or less.

AN ORDINANCE AMENDING THE LAND DEVELOPMENT CODE OF SEMINOLE COUNTY; PROVIDING FOR THE REZONING OF CERTAIN DESCRIBED REAL PROPERTIES LOCATED IN UNINCORPORATED SEMINOLE COUNTY FROM OP (OFFICE PROFESSIONAL) TO PCD (PLANNED COMMERCIAL DEVELOPMENT) DISTRICT; PROVIDING FOR SPECIFIC DEVELOPMENT CONDITIONS BY MEANS OF A DEVELOPMENT ORDER; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA:

Section 1. LEGISLATIVE FINDINGS.

(a) The Board of County Commissioners hereby adopts and incorporates into this Ordinance as legislative findings the contents of the document titled "Tusawilla Centre."

(b) The Board hereby determines that the economic impact statement referred to by the Seminole County Home Rule Charter is unnecessary and waived as to this Ordinance.

Section 2. REZONING.

The zoning classification assigned to the following described property is changed from OP (Office Professional) to PCD (Planned Commercial Development):

Legal Description Attached as Exhibit A

Section 3. CODIFICATION. It is the intention of the Board of County Commissioners that the provisions of this Ordinance shall not be codified.

Section 4. SEVERABILITY. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, it is the intent of the Board of County Commissioners that the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 5. EFFECTIVE DATE.

A certified copy of this Ordinance shall be provided to the Florida Department of State by the Clerk of the Board of County Commissioners in accordance with Section 125.66, Florida Statutes. This Ordinance shall become effective upon the date of its filing by the Florida Department of State and recording of Development Order #3-20000014 in the official land records of Seminole County.

ENACTED this 9th day of September, 2003.

BOARD OF COUNTY COMMISSIONERS
SEMINOLE COUNTY, FLORIDA

By: _____
Daryl G. McLain
Chairman

EXHIBIT "A"

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